



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,842	01/10/2001	Edward R. Knapp III	102088-300	8162

7590 07/09/2003
William B. Slate, Esq.
Intellectual Property Law Section
WIGGIN & DANA
P.O. Box 1832
New Haven, CT 06508-1832

EXAMINER

TRAN, KHOA H

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,842

Applicant(s)

KNAPP ET AL.

Examiner

Khoa Tran

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,11,18-24 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,11,19 and 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,18,20 and 31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

With respect to applicants' remarks that the examiner has inadvertently misread the election of species such that the elected species should be Group I, Species VI (Figures, 53, 54, 54A, 55 and 56) and not the nonelected species of Group I, Species IV is acknowledged. According to the elected species, claims 3, 11, 19, and 21-24 are withdrawn from consideration as being directed to non-elected invention. It should be noted that claim 3 reads on Figure 50 because of the set forth of a molded plastic support fixture (34) having a declined surface; claim 11 reads on Figures 58 and 59 because of the set forth of the tray having a central first engagement features (58) for securing the tray to a central first support; claim 19 reads on Figure 43 because of the set forth of "packaged in a single carton"; claim 21 reads on Figure 45 because of the set forth of an aperture on the base to receiving a lower end portion of the panel assembly; claim 22 reads on Figure 44 because of the set forth of a corrugated cardboard handle secure to the header; claim 23 reads on Figure 22 because of the set forth of brackets on the header and the panel for mounting to a wire rack and claim 24 reads on Figure 50 because of the set forth of the upper and lower mounting brackets (656).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the trays are held in a

Art Unit: 3634

front to back declination as specified by claim 2 must be shown or the feature canceled from the claim. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

Specification

On page 4, line 17, "Fig. 14 is a front view" should be --Fig. 14 is a bottom view-- and line 19, "Fig. 16 is a front view" should be --Fig. 16 is a bottom view-- in order to agree with what have been shown in the drawings. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 18, the recitation of "either" renders the claim indefinite because it is unclear which one to the two nonequivalent alternatives the applicants are positively set forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3634

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Simon et al.

Simon et al. disclose all limitations of the claims. See Figures 1-3 and 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al. in view of Allsop et al. Simon et al. disclose all limitations of the claims except that the tray (20a) is made out of corrugated material. See Figures 1-3 and 14 and column 4, lines 7-9. However, Allsop et al. teach a corrugated tray (10) supported by a pair of brackets (94). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the tray of Simon et al. to be a corrugated tray with brackets thereof as taught by Allsop et al. in order to have trays that are lightweight for the shipment purpose. With respect to claim 5, plastic is notoriously old and well-known material that uses in bracket construction. Accordingly, it would have been obvious to one ordinary skill in the art as a matter of engineering design choice to utilize plastic as the particular material to construct the brackets therefrom because it is well-within the level of skill in the art to utilize the

Art Unit: 3634

known material according to its suitability of intended use, i.e., to have a lightweight, rust free and durable bracket, without structurally alter or affecting its performance thus it does not produce any new matter.

Claim 1, 2, 18, and 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. Zoltan et al. disclose a retail display system that meets all limitations of claims except that the panel (12) of Zoltan et al. does not support trays. See Figure 1A. However, Mangrum et al. teach the panel (12) having vertical array of engagement apertures (54) that support trays (14). See Figures 1A-1C and 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the panel of Zoltan et al. with provisions of engagement apertures and trays thereof as taught by Mangrum et al. in order to have tier of removable trays to support items thereon and enables to collapse to a flattened position for bulk shipment.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. as applied to claims 1, 2, 18, and 20 above, and further in view of Bustos. Bustos teaches the plastic cap frames (94, 96) secured to trays supporting panel. See Figure 2. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the modified panel with provisions of plastic cap frame thereof as taught by Bustos in order to protect the edges of the panel and to provide stability to the panel.

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. as applied to claims 1, 2, 18, 20, and 31 above,

Art Unit: 3634

and further in view of Everett. Everett teaches the panel (14) having apertures (14f) on the front thereof. See Figures 1 and 2. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the panel of Zoltan et al. in view of Mangrum et al. with the panel that has apertures on the front thereof as taught by Everett in order to have apertures on the front instead of on the back of the panel so as to take play in supporting trays thereon thus producing no new matter and unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Maglione, Vlastakis, Smith, Davidson, Pursall, Spezial et al., Crosslen, Lombardo, Sanchez-Levin et al., Bruton et al., Barnhrdt, Dumond, Ascik, Rabas, and J. Wolkerstorfer are cited to show similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the
Patent and Trademark Office

Fax No. _____ On _____

(Date)

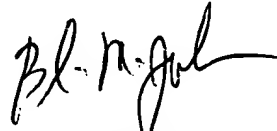
Type or printed name of person signing this certificate:

(Signature)

Art Unit: 3634

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran
June 25, 2003



Blair M. Johnson
Primary Examiner